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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,461	08/30/2001	Mick A. Nylander	G00310/US	9414
7590	12/31/2003		EXAMINER	
Michael T Raggio Dinnin & Dunn 2701 Cambridge Court Ste 500 Auburn Hills, MI 48326			RODRIGUEZ, PAMELA	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/943,461	NYLANDER ET AL.	
	Examiner Pam Rodriguez	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 December 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-11 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 30 August 2001 is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

    1. Certified copies of the priority documents have been received.

    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 7, 2003 has been entered.

***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: In lines 3-4 of Claim 4, the addition of the phrase “and a first affixing member arranged approximately 180 degrees from a second affixing member” is not supported by the specification. In the lines preceding this phrase, applicant recites that each mass member have these affixing members and then applicant goes on to claim in lines 6-8 that each mass member also includes connecting members. While the examiner understands that applicant is attempting to claim that each mass member has affixing members that connect and mate with one another, applicant has not disclosed that each mass member has both these affixing members and connecting members. In other words, as recited in Claim 1, these affixing members are made up of

connecting members (i.e., the tabs and receptacles) but there is no antecedent basis for EACH mass member having both affixing members AND connecting members.

***Claim Rejections - 35 USC § 112***

3. Claims 2, 3, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 2 of Claim 2, the terms "said tab" and "said mated receptacle" are indefinite. With regards to the term "said tab", it is unclear which of the plurality of first and second tabs, recited in Claim 1, that applicant is referring to. And with regards to the term "said mated receptacle", it is unclear which of the plurality of first and second receptacles, also recited in Claim 1, that applicant is referring to here. And, Claim 2 recites the limitation "said mated receptacle" in line 2. There is insufficient antecedent basis for this limitation in the claim.

In line 2 of Claim 3, the terms "said receptacle" and "said mated tab" are indefinite for the reasons listed with respect to Claim 2 above. And further, Claim 3 recites the limitation "said mated tab" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the connecting members" in line 2. There is insufficient antecedent basis for this limitation in the claim.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 4-8 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In lines 3-4 of Claim 4, the addition of the phrase "and a first affixing member arranged approximately 180 degrees from a second affixing member" renders the claim indefinite. In the lines preceding this phrase, applicant recites that each mass member have these affixing members and then applicant goes on to claim in lines 6-8 that each mass member also includes connecting members. While examiner understands that applicant is attempting to claim that each mass member has affixing members that connect and mate with one another, applicant has not disclosed that each mass member has both these affixing members and connecting members. In other words, as recited in Claim 1, these affixing members are made up of connecting members (i.e., the tabs and receptacles) but there is no antecedent basis for EACH mass member having both affixing members AND connecting members.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 4-6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Domer.

Regarding Claim 4, Domer discloses a dynamic damper (see Figure 1) having a plurality of mass members 1a and 1b, each mass member having an inner surface extending from the mass member (see Figure 1 where the inner surfaces of members 1a and 1b comprise ribs 5, which extend from the inner surfaces of these mass members as discussed in column 2 lines 56-59), an outer surface (see Figure 1 and the outer surfaces of mass members 1a and 1b which face elements 6), and a first affixing member 4 arranged approximately 180 degrees from a second affixing member 3 (see Figure 6), wherein the mass member assembly is affixable to a rotary shaft (see column 2 lines 43-51, wherein the torsion bar to which the members are attached is readable as a rotary shaft), wherein these affixing members include a plurality of elongated connecting members 3 and 4 (as shown in Figure 1) each extending radially inwardly from the inner surface of each mass member 1a and 1b toward the rotary shaft (see Figures 3 and 4) thereby defining a plurality of spaced apart attachment surfaces 5, wherein each of the spaced apart attachment surfaces 5 secures the damper in the closed position to the shaft, wherein the mass member assembly is spaced apart from

the rotary shaft and being supported by the connecting members 3 and 4 directly contacting the shaft to allow the mass member assembly to vibrate by resonance (see column 2 lines 43-55 and Figures 1, 3, and 4), and the connecting members 3 and 4 being subjected substantially to compressive deformation between the mass member assembly and the rotary shaft.

(Note: see the examiner's interpretation of the claim language regarding the affixing members and the connecting members as discussed in paragraph 5 above)

Regarding Claim 5, note that the torsion bar would inherently have a central axis of rotation and that each of the spaced apart attachment surfaces 5 would align in a direction parallel thereto.

Regarding Claim 6, see Figures 3 and 4.

Regarding Claim 10, see Figures 1, 3, and 4.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-3, 7-9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domer.

Regarding Claim 1, Domer discloses a dynamic damper (see Figure 6) having most all the features of the instant invention including: a mass member assembly 1c/1c including a plurality of discrete mass members 1c,1c, each mass member having an inner surface (see Figure 6 and Figure 1 where the inner surfaces of members 1c and 1c would extend in-between elements 5), an outer surface (see Figure 6 and the outer surfaces of members 1c and 1c which would face elements 6 shown in Figure 1), and first and second affixing members 3 and 4 for affixing one of the mass members to the other (see Figure 6 and column 3 lines 13-28), wherein the first and second affixing members include a first tab arranged on one of the mass members and a first receptacle arranged on the other of the mass members, and wherein the mass member assembly 1c/1c is affixable to a rotary shaft (see column 2 lines 43-51, wherein the torsion bar to which the members are attached is readable as a rotary shaft).

However, Domer does not disclose that the first and second affixing members include a first AND second tab arranged on one of the mass members and a first AND second receptacle arranged on the other of the mass members.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the affixing members of Domer to include a first AND second tab on one of its mass members and a first AND second receptacle arranged on the other of the mass members as an alternate means of fastening the two mass members together. Since Domer already teaches the use of a tab member on one of its mass members and a receptacle member on the other of its mass members, it would not be beyond the realm of one of ordinary skill in the art to employ a two tab structure on one mass member and a two receptacle structure on the other mass member. As long as the two mating mass members remain securely fastened, the means used to perform this function is arbitrary.

Regarding Claim 2, see tab 3 in Figure 6.

Regarding Claim 3, see receptacle 4 in Figure 6.

Regarding Claims 7 and 8, Domer discloses most all the features of the instant invention as applied above, except for the connecting members being formed of an elastic material, in particular rubber.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the connecting members of Domer to be formed of an elastic rubber material as a matter of design preference, dependent upon the desired type of engagement between the two mass members. Constructing the connecting members to be rubber would allow for some flexibility between the connecting members to enable them to have some "give" when affixed to one another.

This elasticity would help prevent shearing of the connecting members upon excessive force applied to the rotary shaft.

Regarding Claim 9, see Figures 3 and 4.

Regarding Claim 11, see Figure 1.

***Response to Arguments***

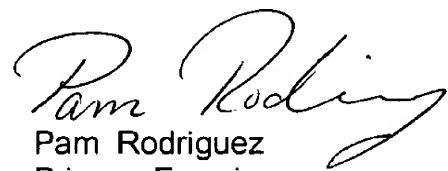
11. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 703-308-3657. The examiner can normally be reached on Mondays 6 am -4 pm and Tuesdays 6 am -12 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Pam Rodriguez  
Primary Examiner  
Art Unit 3683

12/29/03

PR  
12/29/03